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NASA Procedural Requirements

COMPLIANCE IS MANDATORY**NPR 1900.3B**

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Subject: Ethics Program Management

Responsible Office: Office of the General Counsel[| TOC](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) | [Chapter6](#) | [Chapter7](#) |
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CHAPTER 4: Financial Disclosure Reports

4.1 Positions Subject to Financial Disclosure

4.1.1 Background

Financial Disclosure Reports are part of a disclosure process intended to help employees identify and avoid real and potential conflicts between their financial interests and their governmental duties. There are two different Reports: SF-278, Public Financial Disclosure Report, and OGE Form 450, Confidential Financial Disclosure Report.

4.1.2 Positions Subject to Filing of Executive Branch Public Financial Disclosure Reports

The following individuals, holding a position described in this subchapter, shall be subject to the filing of SF-278s, pursuant to NPD 1900.9:

- a. Presidential nominees to positions requiring the advice and consent of the Senate.
- b. Senior Executive Service (SES), scientist/professional (ST), and senior level (SL) employees.
- c. Officers and employees in a NASA Excepted appointment and Special Government Employees, "whose positions are classified above GS-15 of the General Schedule,... or whose rate of basic pay under other pay schedules is fixed at a rate equal to or greater than 120% of the minimum rate of basic pay for GS-15; each member of a uniformed service whose pay is at or in excess of O-7 ..., and employees in any other position determined by the Director of the Office of Government Ethics to be of equal classification." 5 CFR Part 2634.202(c).
- d. Employees in positions that are excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C regardless of pay), unless the Director of the Office of Government Ethics has excluded their positions.
- e. Administrative Law Judges.
- f. The Designated Agency Ethics Official.
- g. Intergovernmental Personnel Act detailees who are assigned to established positions at NASA that are classified above GS-15 of the General Schedule (i.e., established SES positions), who are paid at a rate of pay equal to or greater than 120% of the minimum rate of basic pay for a GS-15, or who are in any other position determined by the Director of the Office of Government Ethics to be equal classification.

4.1.3 Positions Subject to Filing of Executive Branch Confidential Financial Disclosure Reports

The following individuals, holding a position described in this subchapter, shall be subject to the filing of an OGE Form 450, pursuant to NPD 1900.9:

a. Filing Based on Position

An employee holding a position described below must file an OGE Form 450:

(1) Employees classified at the GS-15 level or below under 5 U.S.C. § 5332, or at comparable pay levels under other authority, regardless of grade, and military personnel serving in pay grades below O-7, whose duties and responsibilities require that the employee participates personally and substantially through decision or the exercise of significant judgment in making a Government decision or taking Government action regarding the following:

(i) Contracting or procuring, including the evaluation or selection of contractors; the negotiation, approval, or award of contracts; the oversight of activities performed by contractors, including administering, monitoring, auditing, and inspecting of contractors and contract activities; and the initiation or approval of requests to procure supplies, equipment, or services, other than those common items from NASA or General Services Administration sources.

(ii) Evaluating or selecting grant proposals; administering or monitoring grants or subsidies or agreements, including Space Act Agreements, and including those with educational institutions and other non-Federal organizations.

(iii) Regulating or auditing any non-Federal entity.

(iv) Using or disposing of excess property.

(v) Establishing or enforcing safety standards and procedures.

(2) Employees classified at the GS-15 level or below under 5 U.S.C. 5332, or at comparable pay levels under other authority, and who are identified by the supervisor as holding positions requiring the incumbent thereof to exercise judgment in making Government decisions or taking actions in which such decisions or actions may have a direct and substantial economic impact on the interest of any non-Federal entity; or whose positions are otherwise identified as requiring the employee to file a report to avoid a real or apparent conflict of interest, and to carry out the purposes behind any statute, Executive order, rule, or regulation applicable to or administered by that employee (e.g., employees whose duties involve investigating violations of criminal or civil law).

(3) All Special Government Employees.

(4) Intergovernmental Personnel Act detailees, other than those individuals who must file an SF-278 under 4.1.2.g.

b. Filing Based on Assignment

All employees, regardless of grade, serving as members, evaluators, or advisers to the following boards or committees must file an OGE Form 450:

(1) Source Evaluation Boards or Committees.

(2) Inventions and Contributions Boards.

(3) Contract Adjustment Board.

(4) Board of Contract Appeals.

(5) Site Selection Boards.

(6) Performance Evaluation Boards or Committees administering the award fee of a contract.

c. Exclusions

The employees described in subsections a. and b. above may be excluded from filing OGE Form 450s, under the following circumstances:

(1) An employee required to file an SF-278 might elect to file a current copy of their SF-278 in lieu of the OGE Form 450 required under this chapter.

(2) An employee, or class of employees, may be exempted from the requirement to file an OGE Form 450 when the supervisor determines that the employee's duties are of such a nature as to make remote the possibility that the incumbent will be involved in a real or apparent conflict of interest, or the duties of the position involve such a low level of responsibility that the submission of an OGE Form 450 is unnecessary because of (1) the substantial degree of supervision and review over the position, or (2) the inconsequential effect of any potential conflict on the integrity of the Government. Supervisors shall forward exemption requests from, or on behalf of, employees to the Associate General Counsel for General Law and/or to the Center Chief Counsel. Reviewing counsel will make recommendations based on the merits of exemption requests.

(3) Reviewing officials may make a determination to allow the use of OGE Optional Form 450-A for annual OGE Form 450 filers. If allowed, filers must file a new OGE Form 450 at least once every fourth year. (e.g., 2007, 2011, 2015).

4.2 Identification and Notification of Filers

4.2.1 Public Financial Disclosure

- a. With regard to new entrants, Human Resources Directors will identify employees required to file SF-278s and update the FPPS Financial Disclosure Statement field with a "J." This includes everyone listed in section 4.1.2 of this NPR. The NASA Shared Services Center (NSSC) will notify all new entrants of the filing requirement.
- b. NSSC will notify filers of the May 15 annual filing deadline by March 15 of each year. The NSSC shall send reminder notices to all filers by April 15 and May 14.
- c. Human Resources Directors must identify employees who are terminating their tenure in a position requiring an SF-278, provide the employee with a SF-278 form upon termination, and ensure the FPPS Financial Disclosure Statement field is coded with a "J." In the event that a former employee does not file on time, NSSC must notify the terminating employee that the form is late and a late fee may be assessed. If the form is not filed, the NSSC will notify the former employee three times (at 30 day intervals from the due date), then the action will be turned over to the General Counsel and/or Chief Counsel for further processing.

4.2.2 Confidential Financial Disclosure

- a. Supervisors will identify employees required to file an OGE Form 450, based on determination of position. The Supervisors/Administrative Officers will update the list of employees identified as filers in the Ethics Program Tracking System (EPTS).
- b. NSSC will notify points of contact (POCs) designated by each Center on or about November 15, that it is time to update the list of filers. The POCs will update the list of filers in the Ethics Program Tracking System by the second Friday of December of each year. The NSSC will notify filers of the February 15th annual filing deadline by December 15 of each year. The NSSC shall send reminder notices to all filers by January 15 and February 14 of each year.
- c. With regard to new entrants, Human Resources Specialist will work with the new entrants' supervisors to identify employees required to file OGE Form 450s. The supervisors will update the position description to note that the position requires the employee to file a financial disclosure form. When the Human Resource Specialist updates FPPS, in the Financial Disclosure field, they will mark the field with a "I." The NSSC will run a report every week to identify new entrants. The NSSC will notify new entrant filers of the 30-day filing requirement as soon as possible during the appointment.

4.3 Determination of Calendar Year

- a. For SF-278s, the reporting period varies depending on the SF-278 Schedule. Schedule A should cover the prior calendar year (CY) and the current CY up to the date of filing; Schedule A, block B, should include the value of assets as of any date within 31 days of filing; Schedule C, Part I should cover the prior CY and the current CY up to any date within 31 days prior to the date of filing; Schedule C, Part II is as of the date of filing; and Schedule D covers the prior two CYs and the current CY up to the date of filing.
- b. For OGE Form 450s, the report should cover the proceeding calendar year from January 1 to December 31, or any portion of that time period not covered by a previous Public or Confidential Financial Report.

4.4 Timeframe for Filing

4.4.1 Public Financial Disclosure

- a. Employees responsible for filing annual SF-278s must file their reports for the previous calendar year with the Agency by May 15.
- b. New entrants must file within 30 days of assuming a new position that requires Public Financial Disclosure reporting. No report is required if the employee:
 - 1) left a position requiring the filing of an SF-278 within 30 days prior to assuming the new position or
 - 2) has already filled out a report as a nominee.
- c. Nominees must file between nomination and within five days after transmission of the nomination to the Senate.
- d. If a new entrant or nominee is not expected to work in excess of 60 days in a calendar year as determined by the ADAEO, the employee is not required to file an SF-278. In that case, however, SGEs must still file an OGE Form 450. If the employee eventually does work in excess of 60 days, the employee must file an SF-278 within 15 days after the 60th day of duty and will have to file a termination report after leaving the position.

e. Termination reports must be filed within 30 days of leaving a covered position, unless the filer is going to another covered position within the 30 days .

4.4.2 Confidential Financial Disclosure

a. New entrants must file within 30 days of assuming a position that requires the filing of an OGE Form 450. No report is required if the employee 1) left a position requiring filing of an SF-278 or OGE Form 450 within 30 days prior to assuming the new position and has satisfied the reporting requirements of that job or 2) already filled out a report in connection with appointment to the position.

b. If an employee performs a job requiring an OGE Form 450 for more than 60 days during the reporting period, the employee must file an OGE Form 450 as an incumbent (i.e., an annual filer). Employees responsible for filing OGE Form 450s must file their reports for the previous calendar year with the Agency no later than February 15.

c. If employees start a covered position between November 1 and December 31, they do not need to file an annual report, because they must have worked over 60 days in the preceding reporting period. Instead, only a new entrant report must be collected.

d. With the exception of Special Government Employees, if an employee is not expected to work in excess of 60 days in a calendar year, the employee is not required to file an OGE Form 450. If the employee, however, does work in excess of 60 days, the employee must file an OGE Form 450 within 15 days after the 60th day of duty.

4.5 Extensions and Late Fees

4.5.1 Public Financial Disclosure Reports

a. Form reviewers may grant an extension of 45 days in which to file an SF-278. The reviewers may also grant an additional 45-day extension.

b. If a filer has not turned in their SF-278 within 30 days of the due date or the latest extension date granted by an Agency reviewer, the filer is subject to a \$200 late filing fee.

c. Upon written request from a late filer, the DAEO may waive the late filing fee following a determination of extraordinary circumstances.

4.5.2 Confidential Financial Disclosure Reports

a. Reviewing officials may, upon a showing of good cause, grant one or more extensions in which to file an OGE Form 450, not to exceed 90 days total.

b. Administrative remedies are available for the late filing of OGE Form 450.

4.6 Collection and Review

a. The Agency has developed an Ethics Program Tracking System that will be used to track all forms at the Agency. Filers will electronically file their forms starting January 1, 2007, using the system. NOTE: aspects of electronic filing of SF278s will be phased in over the course of 2007. The NSSC is responsible for the storage and retention of the forms in accordance with NPR 1441.1D, NASA Records Retention Schedules.

b. The NSSC collects SF-278s for the Agency. The Office of the General Counsel and Office of the Chief Counsel review the reports for their Center's filers. The field offices for the Inspector General, the NASA Management Office, and the NASA Shared Services Center will review the forms for their employees. However, the Office of the General Counsel will review forms from Center Directors, Deputy Center Directors, and Chief Counsels.

c. The NSSC collects OGE Form 450s for all filers. The Office of the General Counsel and the Office of the Chief Counsel review the reports for their Center's filers. The Center's offices for the Inspector General, NASA Management Office, and the NASA Shared Services Center will review the forms for their employees.

d. Reviewing officials at Headquarters and the Centers may incorporate a supervisory review step into the review process.

e. Reviewers have 60 days from the date of filing to conduct a preliminary review of the reports.

4.7 Retention of Completed Reports

a. The NSSC shall retain the original signed SF-278s and the OGE Form 450s filed after July 3, 2006. All SF-278s filed prior to July 3, 2006, will be retained with the Office of Human Capital Management at Headquarters. OGE 450s filed prior to July 3, 2006, will be retained at the Centers. All respective offices will retain the forms in

accordance with NPR 1441.1D, NASA Records Retention Schedules.

b. The Office of the General Counsel shall retain the original signed SF-278s, the OGE Form 450s, and the NASA HQ Form 247s for all Special Government Employees in accordance with NPR 1441.1D, NASA Records Retention Schedules.

4.8 Guidance on Financial Disclosure Requirements for Special Government Employees Serving on NASA Advisory Committees

4.8.1 Policy

NASA advisory committees are those entities which are composed in part of non-Federal officials and which are formed for the purpose of giving advice or recommendations to a Federal official. These groups include the Aerospace Safety Advisory Panel and the NASA Advisory Council. Although all SGEs must file financial disclosure reports (see paragraph 4.1.3(a)(3)), the provisions of this subchapter only apply to SGEs who are members of advisory committees, not SGEs serving in other roles, such as consultants or members of Source Evaluation Boards.

Non-Federal officials serving on advisory committees are normally appointed SGEs and are, therefore, required to file financial disclosure reports prior to appointment and annually thereafter. Failure to timely file a completed report disqualifies the SGE from participation in committee activities until the report is certified.

As set forth in NPD 1900.9D, the Office of the General Counsel reviews financial disclosure reports, including those of SGEs serving on advisory committees. For advisory committees only, the forms are also to be reviewed by the Executive Secretary of the advisory committee. The requirement for Executive Secretary review stems from an OGE audit of NASA financial disclosure systems and is based on the nature of the NASA advisory committees. A majority of NASA advisory committee members are employed in the aerospace industry or with academic institutions that conduct business with the Agency. Therefore, potential conflicts of interest are the rule, rather than the exception. Executive Secretaries are the only NASA employees with both knowledge of a particular committee's agenda and the opportunity to counsel caution, should the committee's activities lead it in a direction in which potential conflicts may become real. In order to protect both NASA and the SGEs serving on any given committee, the Executive Secretary must have personal knowledge of the potential conflicts among the members and, therefore, must participate in the conflict review.

4.8.2 Appointments

Special filing and review requirements exist for the following types of appointments:

a. New Entrants

SGEs must file financial disclosure reports (new entrant reports) prior to appointment or reappointment. Once appointed, SGEs need not file a new report for each new committee to which they are appointed during the same calendar year.

b. Multiple Appointments

When an SGE with a current appointment to a NASA Advisory Committee is assigned to another NASA Advisory Committee, the most recent form must be reviewed by the Office of the General Counsel and the Executive Secretary of the committee prior to the first meeting at which the SGE will be in attendance, so that any potential conflicts with the committee's business can be identified prior to any involvement by the SGE.

4.8.3 Reappointment or Redesignation New Entrant Yearly Filing

All SGE (advisory committee) filers will file a new entrant report annually, subject to the following:

a. Due Date for New Entrant Yearly Filing (Confidential Filers)

For ease of administration, all new entrant reports will be due on September 30 of each year. Thus, all SGE members, including those who filed new entrant reports during the preceding 12 months, will file new entrant reports on that date. If an SGE files a new entrant report in August or September, the new entrant report may also serve as the annual report due on September 30 of that same year.

b. Due Date for New Entrant Yearly Filing (Public Filers)

All new entrant reports will be due on May 15 of each year. If an SGE files a new entrant report prior to May 15, then a new form is not required on May 15.

c. Alternative Financial Disclosure for New Entrant Yearly Confidential Filers

For purposes of the yearly report only, advisory committee SGEs may use either the OGE 450 or a NASA Headquarters NHQ Form 247, Confidential Financial Interest Certification for Special Government Employees

Serving on NASA Advisory Committees. This shortened disclosure form requires only that the SGE document any changes to his or her previously filed OGE 450, whether that OGE 450 is a new entrant or annual report. SGEs who must file the SF-278 may not use the NHQ Form 247. If an SGE opts for the NHQ Form 247, reviewers (e.g., the Office of the General Counsel and the Executive Secretary) must be provided with both the NHQ Form 247 and the most recent OGE 450 filed by that SGE, since most, if not all, potential conflicts will be identified on the OGE 450.

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